

**AFFIDAVIT IN SUPPORT OF AN APPLICATION UNDER RULE 41 FOR A
WARRANT TO SEARCH AND SEIZE**

I, John W. Forte, hereby depose and state as follows:

INTRODUCTION

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), United States Department of Justice, and have been so employed since 2002. I am currently assigned to the ATF Boston Field Division, Manchester, New Hampshire Field Office, and charged with investigating criminal offenses involving the federal firearms, explosives, arson, alcohol, and tobacco diversion laws. As such, I am a "federal law enforcement officer" within the meaning of Rule 41 of the Federal Rules of Criminal Procedure.

2. I have received extensive training in the federal firearms laws and am familiar with ATF's regulations regarding the purchase and sales of firearms. I have successfully completed the Criminal Investigations Training Program and the ATF New Professional Training (NPT) at the Federal Law Enforcement Training Center in Glynco, GA. During the NPT program, I learned how to investigate criminal offenses involving the federal firearms, explosives, arson, alcohol, and tobacco diversion laws. I have received advanced training with regard to conducting complex firearms trafficking investigations. I have participated in dozens of investigations relating to the illegal acquisition and sales of firearms, the illegal manufacture and possession of National Firearms Act weapons and previously have sworn out numerous affidavits in support of search warrants and arrest warrants in firearms cases. I have been certified as an Interstate Nexus Expert, that is, an expert in establishing whether particular

firearms or ammunition have traveled in interstate commerce thereby satisfying the interstate commerce element of many federal firearms crimes.

3. The information contained in this affidavit is based on my personal involvement in this investigation, my training and experience, my review of documents, and information provided to me by other law enforcement officers. Since this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause for the requested warrant.

4. Based on the facts set forth in this affidavit, there is probable cause to believe that violations of Title 18, United States Code, Section 922(u) have been committed by Devin KANE. Probable cause exists to believe that evidence, fruits, and instrumentalities of the aforementioned criminal violations will be located at 240 Hobart Hill Road in the town of Hebron, New Hampshire. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search this residence, further described in Attachment A, for the items described in Attachment B.

LEGAL BACKGROUND

5. Title 18, United States Code, Section 922(u) makes it a federal crime to steal a firearm from a business engaged in interstate commerce. That statute provides in relevant part:

It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.

18 U.S.C. 922(u).

FACTS ESTABLISHING PROBABLE CAUSE

6. On May 10, 2021, the manager of the Barn Store of New England contacted the New Hampshire State Police (NHSP) and ATF to report the theft of a Smith & Wesson, model M&P 15-22, .22 caliber rifle, S/N LAA7327. The manager advised that, through the video surveillance system review, it was determined that the firearm was stolen on April 23, 2021. The manager stated that the theft was not realized until May 10, 2021.

7. On May 12, 2021, this affiant obtained and reviewed the video surveillance from Barn Stores of New England. This affiant also obtained a copy of the ATF Theft/Loss Report completed by the Barn Store of New England regarding the theft.

8. Based on the review of the video surveillance by this affiant and the store manager, the following was noted: On April 23, 2021, at approximately 1603 hours, a silver colored Chevrolet Silverado, four-door pickup truck, with black fender flares and black tire rims pulled into the driveway of the Barn Stores of New England located at 96 Old Turnpike Road in Salisbury, NH. Shortly after a Caucasian male, with a thin-to-average build, is seen walking into the store via the front entrance. The suspect is wearing a backwards facing two-tone baseball hat with a logo, a black COVID-19 face mask, a blue jacket, black athletic pants, and red sneakers.

9. At approximately 1605 hours, the suspect picks up a Smith & Wesson, model M&P 15-22, .22 caliber rifle, S/N LAA7327 from the floor display rack. The suspect's body position is such that his back is to the store employee in the firearms section, who at that time is assisting other customers. The suspect closes the multi-position shoulder stock on the rifle to its smallest position, then pulls the rifle close to his body, and then walks out of the firearms area into the rear aisle of the store all while keeping his back to the employee in the firearms section.

The suspect can then be seen on a different camera in the rear aisle of the store positioning the rifle under his coat and walking toward the restroom. The suspect entered the restroom and remained there for approximately three minutes and then emerged from the restroom. The suspect walked back down the rear aisle, through the firearms section, and out the front door. This affiant subsequently determined that the stolen Smith & Wesson, model M&P 15-22, .22 caliber rifle, S/N LAA7327 has travelled in, or affected, interstate commerce.

10. At approximately 1618 hours, the suspect re-entered the store via the front door. At approximately 1622 hours, the suspect can be seen on video surveillance exit an aisle into the rear aisle holding a box for a Night Stick Area Light and then enter another aisle. Shortly after, the suspect exits that aisle with the Night Stick Area Light removed from the box. The suspect then places the box down at the end of another aisle. The suspect then turns to face the rear of the store, places the Night Stick Area Light inside his coat, and then zips the coat up. The suspect leaves the store shortly thereafter, at approximately 1623 hours.

11. At approximately 1623 hours, what appears to be the same truck exits the driveway of the Barn Stores of New England.

12. On that same day, this affiant took still pictures from the video of both the suspect vehicle and the suspect (see Attachment C to this affidavit). This affiant sent the pictures in an email to a number of police departments in the area of The Barn Store of New England, including Chief Joseph Mahoney of the Andover, NH Police Department and Chief David Suckling of the Danbury, NH Police Department.

13. Later that same day, Chief Mahoney contacted this affiant and advised that he believed the vehicle was Devin KANE's and that the pictured suspect matched the physical description of KANE. Chief Mahoney advised that he personally knew KANE, as they went to

high school together. Chief Mahoney further advised that earlier this year, he assisted NHSP and Bristol, NH Police Department with an investigation that involved KANE and the truck matching the description of the suspect vehicle.

14. On that same day, this affiant spoke to Det. Barry Tanner at the Bristol, NH Police Department. Det. Tanner advised that they have an open drug trafficking case on KANE and that he is a known user of controlled substances. Det. Tanner stated that on February 18, 2021, they arrested KANE and photographed KANE's truck in relation to their investigation. Det. Tanner sent this affiant four photographs taken of KANE's vehicle. S/A Forte noted that at the time the Bristol PD photographs were taken, KANE had a temporary registration on the vehicle. This affiant noted that the color, make, model, tire rim color and fender flare style/color all matched that of the suspect vehicle.

15. On that same day, this affiant obtained the registration for KANE's truck which showed the truck was issued registration number 4785191 and is also registered to Douglas Kane (DOB 11/24/1948). The vehicle registration address is 240 Hobart Hill Road, Hebron, NH. The registration lists the vehicle as a 2014 Chevrolet Silverado 1500 pickup truck, silver color, and bearing VIN 3GUKSEC6EG121841. This affiant also obtained KANE's New Hampshire driver's license information, which was last issued on July 14, 2016. KANE's driver's license information indicates that he is approximately 5'10" tall, 180 pounds, and resides at 240 Hobart Hill Road in Hebron, NH.

16. On that same day, NHSP Trooper Kevin McGregor, who knew of two theft cases involving KANE in the last eighteen months, advised this affiant that KANE's phone number was 603-387-9854.

17. On May 13, 2021, Chief Suckling contacted S/A Forte and advised that he believed the suspect vehicle was KANE's. Chief Suckling further advised that the suspect matched the physical description of KANE. Chief Suckling stated that he had recent contact with KANE and had observed his vehicle on April 24, 2021. Chief Suckling advised KANE's truck matched the suspect vehicle from the theft at the Barn Store of New England.

18. On that same day, Special Agent Patrick Dawley and this affiant received information that KANE and the suspect vehicle were at 258 Bay Hill Road in Northfield, NH. This affiant and S/A Dawley drove past the residence twice at approximately 1521 hours on that same day and made a positive identification of KANE and his vehicle.

19. On June 24, 2021, Chief Mahoney obtained a search warrant for the Kane residence of 240 Hobart Hill Road, Hebron, NH for items related to another case of theft—from Belletetes Hardware store located at 24 10 Penny Lane in Andover, NH—in which KANE was a suspect.

20. On June 30, 2021, Chief Mahoney and this affiant went to 240 Hobart Hill Road, Hebron, NH and made contact with KANE's parents, Douglas and Donna Kane. Mr. and Mrs. Kane stated that KANE's drug addiction began in high school when he was overprescribed narcotic medication for an injury he sustained, and his addiction has led KANE to steal from them and others to support his drug habit. Mr. Kane stated that KANE has not had a job for the past five years and does not collect social security income. Mr. and Mrs. Kane stated that KANE uses their address as his home address, but does not reside there. Mr. and Mrs. Kane stated that the last time KANE visited was approximately three weeks ago, when he stayed for one night. They stated that KANE keeps items, including clothing, shoes and hats, in their garage, in their

backyard, in two tubs in their basement, and in the front bedroom of the house next to the front door.

21. Mr. Kane stated that this past winter, KANE brought home a kayak which KANE initially told Mr. Kane was the property of his friend, but later admitted was stolen. Mr. Kane told KANE to stop bringing stolen items to their house. Mr. Kane advised that shortly after he told KANE to stop bringing stolen items to their house, KANE obtained a storage unit at the U-Haul Moving and Storage in Tilton, NH. Mr. Kane stated that he believed KANE rented the storage unit so that he could store items that he had stolen. Mr. Kane showed Chief Mahoney a copy of a bill that was sent to their residence from U-Haul Moving and Storage for the storage unit #1853 in KANE's name.

22. Pursuant to the warrant obtained in the Belletetes case, Chief Mahoney executed his search of the areas where Mr. and Mrs. Kane had stated KANE keeps his possessions, while S/A Forte further spoke with Mr. and Mrs. Kane. During the search of the front bedroom where KANE had slept, Chief Mahoney noted a blue Burton jacket with a hood that appeared to match the jacket worn by the suspect in the theft of the firearm from the Barn Store of New England on April 23, 2021. S/A Forte photographed the jacket:



S/A Forte also noted an “Artic Cat” baseball cap in the same room, which appeared similar to the hat worn by the suspect in the theft of the firearm from the Barn Store of New England on April 23, 2021. S/A Forte asked Mr. and Mrs. Kane if the blue-hooded Burton jacket was KANE’s and it was confirmed to be KANE’s.

23. On that same day, Trooper McGregor obtained a state search warrant for KANE’s U-Haul Storage unit #1853 for items related to the theft of the firearm from the Barn Store of New England on April 23, 2021, which resulted in the seizure of a pair of red Nike sneakers size matching the description of the shoes the suspect was wearing on the day of the theft.

24. Because seizure of the evidence in this case was beyond the scope of the warrant authorizing the search of the Kane residence at 240 Hobart Hill Road in the Belletetes case, this affiant respectfully applies for authorization for a warrant to search the residence and seize the evidence relevant to this case.

CONCLUSION

I submit that this affidavit supports probable cause for a warrant to search the residence of Douglas and Donna Kane located at 240 Hobart Hill Road, Hebron, NH as described in Attachment A, and authorize the seizure of items described in Attachment B.

/s/ John Forte
Special Agent
Alcohol, Tobacco, Firearms and Explosives

The affiant appeared before me by telephonic conference on this date pursuant to Fed. R. Crim. P. 4.1 and affirmed under oath the content of this affidavit and application.

Date: July 2, 2021

Andrea K. Johnstone



Hon. Andrea Johnstone
United States Magistrate Judge